

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application

Inventor(s): Terwilliger et al.

Appln. No.: 10/035,083

Confirm. No.: 3945

Filed: December 28, 2001

Title: DELIVERY SYSTEM AND METHOD FOR
INTERSTITIAL RADIATION THERAPYPATENT APPLICATION

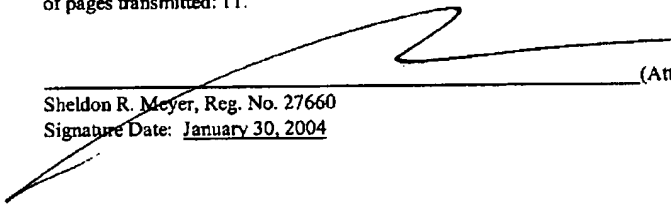
Art Unit: 3736

Examiner: John P. Lacyk

Customer No. 23910

CERTIFICATE OF FACSIMILE TRANSMISSION UNDER 37 C.F.R. § 1.8

I hereby certify that this correspondence is being transmitted by facsimile to the Commissioner for Patents, the United States Patent and Trademark Office, Art Unit 3726 Examiner J. Lacyk, Facsimile No. (703) 746.3334, on January 30, 2004. Total number of pages transmitted: 11.


Sheldon R. Meyer, Reg. No. 27660
Signature Date: January 30, 2004

(Attorney Signature)

TRANSMITTAL LETTER

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Transmitted with this communication in connection with the above-identified application are the following:

In response to the second of two discussions on January 30, 2004 between Melissa Basch and Examiner J. Lacyk, please find attached:

- a copy of the IDS mailed on December 22, 2003 in connection with the above-identified application;
- a copy of the Transmittal Form;
- the postcard receipt (mailed, not returned);
- the Fee Transmittal for FY 2003 documenting payment tendered in the amount of \$180.00; and
- a copy of the check showing payment made in that amount (not cashed as of January 30, 2004).

A copy of the returned postcard is not enclosed, since our office never received a returned card. The PAIR does not indicate an entry for the December 22, 2003 IDS. Moreover, the check for \$180.00 has not been

- 1 -

Attorney Docket No.:
//informal.transmittal.IDS.wpd

201.001:010204
01/30/04-13:26

cached. It appears from the foregoing that the IDS submission may have been lost in handling of First Class Mail, or upon arrival in the PTO.

Ms. Basch will follow up with you on Wednesday, January 4, 2004 regarding the appropriate measures to take in connection with ensuring that the above-referenced IDS is considered prior to issuance of the above-identified application.

We very much appreciate and thank you for your assistance in handling this matter.

Respectfully submitted,

Date: _____

1/30/04

By: _____

Sheldon R. Meyer
Reg. No. 27,660

FLIESLER MEYER LLP
Four Embarcadero Center, Fourth Floor
San Francisco, California 94111-4156
Telephone: (415) 362-3800

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application

Inventor(s): Terwilliger et al.
Appln. No.: 10/035,083
Confirm. No.: 3945
Filed: December 28, 2001
Title: DELIVERY SYSTEM AND METHOD FOR
INTERSTITIAL RADIATION THERAPY

PATENT APPLICATION

Art Unit: 3736
Examiner: John P. Lacyk

Customer No. 23910

CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8

I hereby certify that this correspondence is being deposited in the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Atr Unit 3726 Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on December 22, 2003

John K. Kwok, Reg. No. 46,851
Signature Date: December 22, 2003

(Attorney Signature)

INFORMATION DISCLOSURE STATEMENT UNDER 37 C.F.R. §1.56

MS Art Unit 3726
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

It is requested that the information identified in this statement be considered by the Examiner and made of record in the above-identified application. This statement is not intended to represent that a search has been made or that the information cited in the statement is, or is considered to be, material to patentability as defined in 37 C.F.R. §1.56. If this is a continuation, divisional or continuation-in-part application, it is understood that the Examiner will consider all information which was considered by the Office in a parent application. MPEP §609. Such information therefore is not listed herein unless it is desired that the information be printed on a patent issuing from the subject application.

Enclosed with this statement are the following:

- ✓ Form PTO-1449. The Examiner is requested to initial the form and return it to the undersigned in accordance with M.P.E.P. §609.
- The present application is being/was filed after June 30, 2003. In accordance with the pre-official gazette waiver of 37 CFR 1.98 (a)(2)(i) posted at: pac/dapp/opla/preognotice/idswouscopies.htm, copies of cited U.S. patents and publications are not enclosed. However, copies of cited foreign patent documents and non-patent literature are enclosed in accordance with 37 CFR 1.98(a)(2), as still required, except for those items designated by an asterisk (*), which were previously submitted by the applicant in a parent application, from which benefit under 35 U.S.C. §120 is claimed, with an *Information Disclosure Statement* submitted in the parent application which complies with the

- 1 -

Attorney Docket No.: WORLD-01000US1
JKwok/World-01000/01000us1/4th IDS.wpd

September 8, 2000 or subsequent revision of 37 C.F.R. §1.98(a-c), as allowed under 37 C.F.R. §1.98(d)(1).

✓ The present application was filed prior to June 30, 2003. A copy of each cited document as required by 37 C.F.R. §1.98 is enclosed, except for those items designated by an asterisk (*), which were previously submitted by the applicant in a parent application, from which benefit under 35 U.S.C. §120 is claimed, with an *Information Disclosure Statement* submitted in the parent application which complies with the September 8, 2000 or subsequent revision of 37 C.F.R. §1.98(a-c), as allowed under 37 C.F.R. §1.98(d)(1).

— If any of the cited/submitted documents is in a foreign language, a concise explanation of relevance is provided pursuant to 37 C.F.R. §1.98(a)(3)(i). For foreign language documents cited in a search report by a foreign patent office, the requirement for a concise explanation of relevance is satisfied by the submission herewith of an English language version of the search report. MPEP §609A(3). If a written English-language translation of a non-English language document, or portion thereof, is within the possession, custody or control of, or is readily available to any individual designated in §1.56(c), a copy of the translation accompanies this statement, 37 C.F.R. §1.98(a)(3)(ii), and satisfies the requirement for a concise explanation of relevance, MPEP §609A(3).

— *PTA Statement under 37 C.F.R. §1.704(d).* Each item of information contained in the *Information Disclosure Statement* was cited in a communication from a foreign patent office in a counterpart application and this communication was not received by any individual designated in §1.56(c) more than thirty days prior to the filing of the *Information Disclosure Statement*.

This statement should be considered because:

— 37 C.F.R. §1.97(b). This statement qualifies under 37 C.F.R. §1.97, subsection (b) because:

- (1) It is being filed within three months of the filing date of an application other than a continued prosecution application under § 1.53(d);
-- OR --
- (2) It is being filed within 3 months of entry of a national stage;
-- OR --
- (3) It is being filed before the mailing date of the first Office Action on the merits,
-- OR --
- (4) It is being filed before the mailing date of the first Office Action after the filing of a Request for Continued Examination under 37 C.F.R. §1.114.

✓ 37 C.F.R. §1.97(c). Although it may not qualify under subsection (b), this statement qualifies under 37 C.F.R. §1.97, subsection (c) because:

- (1) It is being filed before the mailing date of a FINAL Office Action, a Notice of Allowance, or an action that otherwise closes prosecution in the subject application, whichever occurs first.

-- AND (check at least one of the following) --

- (1) It is accompanied by a STATEMENT as set forth in 37 C.F.R. §1.97(e).
-- OR --
✓ (2) It is accompanied by the \$180 fee set forth in 37 C.F.R. §1.17(p).

— 37 C.F.R. §1.97(d). Although it may not qualify under subsection (b) or (c), this statement qualifies under 37 C.F.R. §1.97, subsection (d) because:

- (1) It is being filed on or before payment of the Issue Fee;
-- AND --
(2) It is accompanied by a STATEMENT as set forth in 37 C.F.R. §1.97(e);
-- AND --
(3) It is accompanied by the \$180 fee set forth in 37 C.F.R. §1.17(p).

✓ **Fee Authorization.** The Commissioner is hereby authorized to charge any deficiencies or credit any overpayment to Deposit Account No. 06-1325. A duplicate copy of this authorization is enclosed.

Respectfully submitted,

FLIESLER DUBB MEYER & LOVEJOY LLP

Date: 12/22/03

By: _____


John K. Kwok
Reg. No. 46,851

FLIESLER DUBB MEYER & LOVEJOY LLP
Four Embarcadero Center, Fourth Floor
San Francisco, California 94111-4156
Telephone (415) 362-3800

Sheet ____ of ____

Form PTO-1449 (Substitute)		U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE		Attorney Docket Number WORLD-01000US1		Serial/Patent Number 10/035,083	
Information Disclosure Statement BY APPLICANT (Use several sheets if necessary)				Applicant/Patent Owner Terwilliger et al.			
				Filing/Issue Date December 28, 2001		Group Art Unit 3736	
U.S. PATENTS							
Examiner Initial		Patent Number	Issue Date	First Named Inventor	Class	Subclass	Filing Date
		3,565,869	02/23/71	DeProspero	260	78.3	12/23/68
		3,636,956	01/25/72	Schneider	128	335.5	05/13/70
		4,052,988	10/11/77	Doddi et al.	128	335.5	01/12/76
		4,402,308	09/06/83	Scott	128	1.2	11/03/80
		4,697,575	10/06/87	Horowitz	128	1.2	11/21/84
U.S. PATENT PUBLICATIONS							
Examiner Initial		Patent Application Publication Number	Publication Date	Applicant			
PENDING U.S. PATENT APPLICATIONS							
Examiner Initial		Application Number	Filing Date	First Named Inventor	Petition to Expunge? Yes No		
FOREIGN PATENT DOCUMENTS							
Examiner Initial		Document Number	Publication Date	Country	Class	Subclass	Trans- lation Yes No

- 4 -

Attorney Docket No.: WORLD-01000US1
 JKwok/World-01000/01000us1/4th IDS.wpd

Sheet ____ of ____

OTHER DOCUMENTS (Include author (if any), title, publisher and place of publication, date and pertinent pages)	
	A. Van't Riet, et al; "Ultrasonically Guided Transperineal Seed Implantation of the Prostate: Modification of the Technique and Qualitative Assessment of Implants"; Int. J. Radiation Oncology Bio, Phys; Vol. 24, pp.555-559; 1992
	Alvaro Martinez, et al; "Sterilization of ¹²⁵ I Seeds Encased in Vicryl Sutures for Permanent Interstitial Implantation"; Intl. J. Radiation Oncology Biol. Phys. Vol 5, pp. 411-413; Pergamen Press Ltd., 1979
	Medi-Physics brochure entitled "I-125 Seeds. No. 6711
	Medi-Physics brochure entitled "I-125 Seeds. No. 7000
Examiner	Date Considered
*EXAMINER: Initial if citation considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.	
*1 = Copy not submitted because it was submitted in prior application SN /_____, filed _____, 20____, relied on under 35 USC §120.	
*2 = Copy not submitted because it was submitted in prior application SN /_____, filed _____, 20____, relied on under 35 USC §120.	

10/03/03

COPY

PTO/SB/21 (08-03)

Approved for use through 08/30/2003. OMB 0651-0031

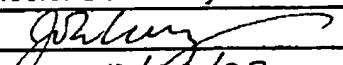
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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TRANSMITTAL FORM <i>(to be used for all correspondence after initial filing)</i>	Application Number	10/035,083
	Filing Date	December 28, 2001
	First Named Inventor	Richard A. Terwilliger
	Art Unit	3736
	Examiner Name	Joseph A. Cadugan
Total Number of Pages in This Submission	n/a	Attorney Docket Number WORLD-01000US1

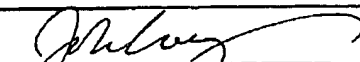
ENCLOSURES (Check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form <input checked="" type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input checked="" type="checkbox"/> Information Disclosure Statement <input checked="" type="checkbox"/> Copy of Cited Document(s) <input checked="" type="checkbox"/> 1449 Form <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance communication to Technology Center (TC) <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): <input type="checkbox"/> Post Card
Remarks _____		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	John K. Kwok Fliesler Dubb Meyer & Lovejoy LLP	
Signature		
Date	12/22/03	Reg. No.: 46,851

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

Typed or printed name	John K. Kwok		
Signature		Date	12/22/03

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Attorney Docket No.: WORLD-01000us1 SRM/JKK
 JKwok/World/1000/1000us1/ids transmittal.pdf

The U.S. PATENT Office date stamp and Serial No. (if a new application) sets forth the date of receipt of:

Applicant: TERWILLIGER et al.

Patent/Serial No.: 10635 083

Issued/Filing Date: DEC. 28, 2001

Title: DELIVERY SYSTEM AND METHOD FOR
INTERSTITIAL RADIATION THERAPY

☐ Patent Application and \$ _____ fee

Pages in Spec. _____: No. of Claims _____

☐ CPA ☐ CIP ☐ CON ☐ DIV ☐ Provisional ☐ Request for Continued Examination

☐ No. of Sheets of Drawings _____: ☐ Formal or ☐ Informal

☐ Non-Publication Request

☐ Preliminary Amendment

☐ Response to Notice for Missing Parts

☐ Assignment and Cover Sheet

☐ Declaration

☐ Power of Attorney

☐ Response

☐ Petition for Extension of Time (_____ months)

☒ FEE: \$ 180.00

☒ Other: (9) Cited Documents

☐ Notice of Appeal

☐ Appeal Brief

☒ IDS

☒ ~~Fee~~ Fee Transmittal

☒ Transmittal Letter

☐ Certificate of Mailing

☐ Express Mail No. _____

File No.: WORLD-01000051

Attorney/Secy: SRH/SKK/TMM

Date Mailed: DEC. 22, 2003

Date Due: _____

PTO/SB/17 (01-03)

Approved for use through 04/30/2003. OMB 0651-0032

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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FEE TRANSMITTAL for FY 2003

Effective 01/01/2003. Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 180.00

Complete if Known

Application Number	10/035,083
Filing Date	December 28, 2001
First Named Inventor	Richard A. Terwilliger
Examiner Name	Joseph A. Cadugan
Art Unit	3736
Attorney Docket No.	WORLD-01000US1

METHOD OF PAYMENT (check all that apply)

☒ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None☐ Deposit Account:Deposit Account Number
Deposit Account Name

06-1325

The Commissioner is authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☒ Credit any overpayments☐ Charge any additional fee(s) during the pendency of this application☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

FEE CALCULATION

1. BASIC FILING FEE

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
1001 750	2001 375	Utility filing fee	
1002 330	2002 165	Design filing fee	
1003 520	2003 260	Plant filing fee	
1004 750	2004 375	Reissue filing fee	
1005 180	2005 80	Provisional filing fee	
SUBTOTAL (1) (\$)			0.00

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

Total Claims	Extra Claims	Fee from below	Fee Paid
80	-20** =	X	0.00
10	-3** =	X	0.00

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
1202 18	2202 9	Claims in excess of 20	
1201 84	2201 42	Independent claims in excess of 3	
1203 280	2203 140	Multiple dependent claim, if not paid	
1204 84	2204 42	** Reissue Independent claims over original patent	
1205 18	2205 9	** Reissue claims in excess of 20 and over original patent	
SUBTOTAL (2) (\$)			

**or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
1051 130	2051 65	Surcharge - late filing fee or oath	
1052 50	2052 25	Surcharge - late provisional filing fee or cover sheet	
1053 130	1053 130	Non-English specification	
1812 2,520	1812 2,520	For filing a request for <i>ex parte</i> reexamination	
1804 920*	1804 920*	Requesting publication of SIR prior to Examiner action	
1805 1,840*	1805 1,840*	Requesting publication of SIR after Examiner action	
1251 110	2251 55	Extension for reply within first month	
1252 410	2252 205	Extension for reply within second month	
1253 930	2253 465	Extension for reply within third month	
1254 1,450	2254 725	Extension for reply within fourth month	
1255 1,970	2255 985	Extension for reply within fifth month	
1401 320	2401 160	Notice of Appeal	
1402 320	2402 160	Filing a brief in support of an appeal	
1403 280	2403 140	Request for oral hearing	
1451 1,510	1451 1,510	Petition to institute a public use proceeding	
1452 110	2452 55	Petition to revive - unavoidable	
1453 1,300	2453 650	Petition to revive - unintentional	
1501 1,300	2501 650	Utility issue fee (or reissue)	
1502 470	2502 235	Design issue fee	
1503 630	2503 315	Plant issue fee	
1480 130	1480 130	Petitions to the Commissioner	
1807 50	1807 50	Processing fee under 37 CFR 1.17(q)	
1806 180	1806 180	Submission of Information Disclosure Stmt	180.00
8021 40	8021 40	Recording each patent assignment per property (times number of properties)	
1809 750	2809 375	Filing a submission after final rejection (37 CFR 1.129(a))	
1810 750	2810 375	For each additional invention to be examined (37 CFR 1.129(b))	
1801 750	2801 375	Request for Continued Examination (RCE)	
1802 900	1802 900	Request for expedited examination of a design application	

Other fee (specify)

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$)

SUBMITTED BY

Name (Print/Type)	John K. Kwok	Registration No. (Attorney/Agent)	46,851	Telephone	415.362.3800
Signature		Date	12/22/03		

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

This collection of information is required by 37 CFR 1.17 and 1.27. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent & Trademark Office, U.S. Department of Commerce, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SENR Commissioner for Patents, Washington, DC 20231.

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